

Performative Democracy

PARTICIPATORY PLANNING, CO-OPTATION AND THE LAUNDERING
OF STATE POWER IN THE SOUTH BRONX

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INTRODUCTION

In the late 19th and early 20th centuries, many North American cities transitioned from a patronage-driven governance system dominated by machine politics to a reform system which centralized administrative power in a civil service. Following this period, the Postreform era of planning in New York City heralded a shift from the “ethical and administrative superiority” of centralized planning towards an emphasis on communicative rationality (Pecorella, 1994:58). This shift in values was encoded in the New York City charter reforms of 1975 and 1989 and resulted in the creation of the modern community board (CB) system as a means by which to

encourage [...] the planning of community life within the city, the participation of citizens in city government within their communities, and the efficient and effective organization of agencies that deliver municipal services in local communities (N.Y.C. Charter, Ch. 69 § 2700).

However, despite the promise of CBs and other modes of community engagement as the vehicles of local democratic governance and deliberative decision-making, “as with any progressive force, procedures developed with a progressive democratic intention may be subverted for other purposes” (Healey, 1992). In the cases of two high-profile planning decisions in the South

Bronx— the economic development deal which resulted in FreshDirect moving their headquarters to a site in Port Morris and the Sheridan Expressway redesign— the degree and kind of community input was managed in ways that nullified voices opposed to the projects, which were ultimately touted by political leaders as wins for the community (New York State Governor’s Press Office, 2012; 2017). Activists took different approaches to overcome these barriers in each case, and in each case they were largely unsuccessful. In this research, I investigate the interplay between the strategies of activists, the agendas of political leaders, and the governance landscape on which these conflicts are decided. Chapter 1 deals with the origins of the participatory planning process in New York City as found in the historical record and culminating in the 1975 Charter Reform. I will narrate the goals of those agitating for the reform, as well as how planning was understood by the Goodman Commission (1972-1975) and the formal mechanisms they codified in order to improve it. In Chapter 2 I will conduct a survey of the research and criticism that has been directed at the Community Board System, laying the groundwork for an analysis of case studies in Chapter 3. I will conclude by developing a theory of co-optation that instrumentalizes participation in the service of laundering state power to private interests, drawing on the case study examples and a broader literature review.

METHODOLOGY

In order to explore the topic of participatory planning I conduct a multifaceted literature review supported by semi-structured interviews of activists, journalists and experts. My literature review includes an investigation into the historical origins of the participatory planning process in New York manifested primarily in the Community Board system, with a focus on contemporary documents from that era. I have chosen this approach not only to understand how the reformers understood their project, but also to inspect the mode of analysis they deployed to reach such an understanding, exploring how these processes developed over time. Following this, I critically engage with the academic body of research regarding participation, which can be organized into a priori theoretical work on participation and a posteriori analyses of New York's participatory governance as implemented. While analyses of the CB system are situated in chronological proximity to the historic charter

revisions and thus not per se reflective of the contemporary functioning of New York's planning apparatus, they are valuable as a window into its genealogy and development. Finally, I construct the framework of my case studies by collating newspaper articles and blog posts concerning their development chronologically in order to build a narrative, drawing in academic literature to provide additional context where needed. I have supported and verified details of this narrative through semi-structured interviews with individuals knowledgeable of the project's development. As a whole, this approach places reform in its historical context in order to understand how the planning process developed, so that when drawing conclusions about its contemporary performance the oversights and assumptions of the past may be avoided or corrected, with an eye toward the reforms of the future.

01: THE ORIGINS OF COMMUNITY CONTROL IN NEW YORK CITY PLANNING

Direct community engagement in planning matters did not arise until the 1963 NYC Charter Reform with the first Community Planning Councils (Rauscher & Momtaz, 2014). Before that time, planning institutions were not exposed to democratic accountability, although this did not mean they were free from oversight. While this isolation was by design, the course of the early to mid-20th century saw a gradual transition from a conception of planning as a professional enterprise isolated from political influence to one whose allegiance was more muddled. This lack of clarity in planning governance was a principle antecedent to the 1975 Charter Reform, which was responsible for the first codification of what we know today as the Community Board system. The Goodman Commission reckoned with planning's legitimacy and efficacy, apprehending the influences on and power dynamics within planning practice. Their analysis laid the groundwork for the 1975 Charter Reform, which was the first substantive revision in planning governance since the 1930s.

This chapter delivers an abbreviated history of the period leading up to the 1975 reform to set the stage for the philosophical and theoretical underpinnings of one of its primary aims: decentralization. I begin by situating the political context of the 1975 charter reform under the auspices of a preceding charter reform in 1938. In the 37 years following the 1938 reform, a diverse coalition of community groups and academics began to foment for a reorganization and redistribution of planning power, known as decentralization, of NYC's planning processes, in response to the growing opacity and capriciousness of the cities' centralized planning regime. Punctuated by historical events, this growing chorus led to the introspective exercise of the Goodman Commission, which analyzed the existing framework of NYC planning governance

and weighed the different ways that power could be decentralized and made more accountable to New Yorkers. As an understanding of the breadth of what reformers considered the complete landscape of possible reforms is developed, competing theories of governance begin to emerge, culminating in a narrative of the final ratification of the ecosystem of Community Boards and land use review we know today.

The framework of the NYC planning regime that reformers were tasked with evaluating was first encoded in 1938 by the Thatcher Commission (Goodman et al., 1973). The Thatcher Commission came about as the product of wealthy elites attempting to move city governance away from machine politics through the imposition of "socially progressive and elitist values" (Pecorella, 1994:30), a movement which later became known as the Reform period of NYC politics. The commission, influenced by a modernist vision of a centralized, rational, and apolitical bureaucracy "was...motivated by considerations of independence, technical expertise, and public interpretation" (Goodman et al., 1973:10). The main products of their work was the City Planning Commission (CPC), a board that would make decisions about the Zoning Resolution, and a professional staff for the commission in the Department of City Planning (DCP), both encoded in the 1938 reform. It is in reaction to this governance arrangement that the Postreform movement arose.

The historical roots of citizen participation in planning did not emerge from a singular set of circumstances, nor were the conditions that led to reform cultivated by one singular entity or class of entities. Instead, "productive movement did not happen in linear, predetermined fashion; rather, moments of conjunction, confluence, and opportunity better describe the drive's

development” (Reaven, 2009:351). There is agreement among scholars that by and large, the discontent which culminated in opposition to the centralized administration of planning in NYC took place as a product of the civil rights movement and opposition to urban renewal (Marcuse, 1987). Additionally, federal programs of the 1960s such as Model Cities and Community Action stipulated that community input was required before funds would be disbursed, giving community organizations a legitimacy that was moderated by their largely advisory role (Pecorella, 1994).

Reaven (2009) places the origins of the participatory planning movement in the 1940s and 50s, emerging from ad hoc networks of volunteers, academics and professionals constituting an “engaged public.” For communities of color, community control meant self-determination regarding development in their neighborhoods, such as the ability to reject urban renewal projects, but white communities adapted the phrase to their own ends:

[Community control] became the goal of Black Power, then Brown Power, and then, in a rapid cooptation of strategies, of White Power in reasserted form. Community came to be understood not just as a site for the exercise of citizenship (as the civic groups had more or less imagined), but also as the subject of the exercise itself (Reaven, 2009: 346).

While these campaigns were not equally valid and in some cases sought mutually exclusive ends, both sought the end of centralized planning power to achieve them. Despite the broad base for reform, it was not until Mayor Lindsay (1966-1973) recognized a political opportunity in the decentralization movement to disempower his political enemies that it gained real purchase in city hall, eventually resulting in the Office of Neighborhood Governance, a sort of pilot program for the CBs. Although the movement became mainstream out of political expediency rather than earnest concern, the “fruits of [the reformer’s] work

had gained public legitimacy by the time Lindsay sought to use them, and should be understood as civic innovations that emerged from a vital period of social learning” (Reaven, 2009:341). By the 1970s, the rationale for planning’s independence began to be questioned at the institutional level (Goodman et al., 1973).

THE REFORM REGIME STARTS TO CRACK

By the early 1970s planning in NYC had evolved into multiple agencies with overlapping roles, which could broadly be divided into a democratically accountable overhead structure responsible for oversight, an internal structure that was meant to add flexibility to planning’s more systematic functions, and line agencies which dealt with the more granular and operational aspects of planning, such as the New York City Transit Authority. These three categories were the primary objects of study for the successor to the Thatcher Commission, the Goodman Commission.

While the city planning regime was meant to be largely independent from the winds of politics, limited political oversight did exist through several mechanisms: the Mayor’s powers to appoint the CPC membership, the ability of the Board of Estimate (BOE)¹ to override zoning changes, and the need for approval from both the CPC and BOE for certain projects such as public housing. This arrangement was centralized and immune from political influence by design - but this immunity also enabled the rise of questionable city agency appointments, no-bid construction contracts and preferential financing practices which coagulated into a corrupt system of graft (Caro, 1974).

Over time the mechanisms in the 1938 charter began to deviate from their intended purposes, its vulnerability to corruption being a prime example. Another example reveals more formal flaws in the ‘38 charter: while the City Planning Commission was originally insulated from political influence,

¹ The Board of Estimate was found unconstitutional in 1989; its functions were distributed largely to City Council.

the Chairperson of the CPC had become a role that served at the Mayor's pleasure, rather than only being vulnerable to removal for cause. Since in official terms the Department of City Planning served under the Chairperson specifically, this change meant that the department and its leader effectively comprised a Mayoral agency. The other Commission members, should they dissent from the Chairperson's wishes, lacked access to Department staff, therefore preventing studied consideration of alternative policies (Goodman et al., 1973).

This politicization, while not per se negative, contributed to the muddled perception of the Department's independence. A more obviously dysfunctional aspect of the 1938 regime was its requirement that the DCP develop a master plan, which had been accomplished in 1969 but was ultimately not accepted by the CPC. This inability to instigate a master plan was characteristic of a flaw with Reform governance, namely that the CPC lacked enough unilateral capacity to generate overarching plans that had a credible shot at implementation. An example of this phenomenon were the annual and ineffectual Draft Capital Improvement Plans.

The Plans were supposed to set public development priorities, and were the product of considerable interfacing with many different line agencies. This multi-stakeholder approach conferred legitimacy in theory, but it was undermined by the fact that neither the executive or legislative branches of city government had anything to do with its production, making it "a mere process which may happen to commit development on an episodic basis" (1973:63).

Other constraints further eroded trust in an independent planning regime, many of which remain today. The geographic situation of NYC in a tri-state metropolitan region, combined with subordination to a state and federal government for which the travails of local planning are incidental severely limits the efficacy of planning

activity. This leads to unclear jurisdictional boundaries, lack of coordination between agencies, and misapprehension of planning activity by the public which damages the limited public trust granted to DCP (Ibid.). The combination of arcane lines of accountability, the production of plans with tenuous connections to reality, and the inscrutable activity of other levels of government led the Commission to conclude that "there is deep concern that the structure of municipal government has become so complex that its political representatives can no longer be held accountable" (1973:89).

THE GOODMAN COMMISSION'S ANALYSIS

The fundamental question before reformers in 1973 was "whether the conditions which led to the creation of an "Independent" City Planning Commission in 1936 still prevail or whether circumstances no longer require a professional semi-autonomous planning entity with city-wide perspective" (Goodman et al., 1973: 14). Their approach was to establish five (5) "threshold planning issues" by which to evaluate different structural options. These issues were constituted as linear dualisms between two contradictory value propositions. Among them were:

1. Planning's independence as a professional civil service immune from substantial public influence and cyclical political pressure versus its politicization as a publicly accountable agent of the will of everyday New Yorkers
2. Planning's centralization as a top-down, geographically broad enterprise versus its decentralization with more localized functions, administrations and purviews
3. A mayoral locus versus legislative locus for the political influence on planning functions
4. A fragmented administration of planning functions with overlapping responsibilities

at different agencies versus a more consolidated, efficient system that would demand less oversight and duplication of roles

5. An emphasis on the overhead, long term aspects of planning versus a stress on the day to day operational sub-agencies

Identifying the grounds upon which the reformers considered the debate over the future of city planning is instructive, as many of the issues they examined in 1973 remain live today. While their analysis does not center on the community board system, it fleshes out the context in which CB reform would take place, as well as the potential tradeoffs at each level of empowerment.

PROPOSALS FOR THE COMMUNITY BOARDS

The Community Board system we are familiar with today was only one of many options considered and debated by reformers, each with different advantages and trade-offs. The discourse around them was invigorated by the inclusion of a prototypical CB system in the 1961 charter revision known as the Office of Neighborhood Governance, which delayed enumerating their powers until 1968, providing a robust terrain for discourse on their final shape (City Planning Commission, 1968). Out of this milieu several creative proposals emerged.

The debates over the final form of the Community Boards were contentious, and many were not recorded. What survives are the transcripts taken from public conferences and the quotes from newspaper interviews that were the forum in which the leadership of civic organizations expressed their ideas. While they are by no means comprehensive of the debate, they are illustrative of how the white male elite advocates of reform were conceptualizing the issues at hand.

Martin Dworkis, an NYU professor, argued that the purview of the CBs should be limited by a reliance on their Borough President for citywide planning

information (Reaven, 2009). This emphasis on connecting CBs to the Borough President's office followed from how the predecessors to the CBs, the Community Planning Councils, already were functioning at the time: members were nominated by civic organizations subject to the approval of the Borough President (*Ibid.*). Returning to the threshold planning issues described above, this stance would position him in favor of devolving planning power to the borough level but not further, reflecting a sensibility of moderate decentralization.

Walter Thabit, another reformer and an advocacy planner associated with Cooper Square Committee, saw a more ambitious role for the boards. His position, prescient of a common criticism leveled against the CB system today, was that community boards "should have some degree of decision-making authority, and—very definitely—the money, technical assistance, and staff to effectively and responsibly carry out their responsibilities" (Reaven, 2009:294). Thalbit would see the centralized planning office of the early 20th century distributed among the CBs, while still granting these local offices considerable independence since they would have in-house professional staff. On the other hand, Roger Starr, head of the Citizens Housing and Planning Council, disagreed. He believed that CBs composed of citizens would fall to rancor and divisive factionalism, and would not be able to credibly administer decentralized planning. He favored politically accountable CBs (Reaven, 2009).

While this is only a subset of the myriad opinions of stakeholders, and a socially elite subset at that, I have included their positions to portray the plasticity of the urban planning process. There were as many positions as there were combinations of stances on threshold planning issues, and while the system as it exists today feels as if it were set in stone, it is clear that this was not always the case.

ENACTMENT

Concurrent but not concomitant with reform activity was the fiscal crisis that struck New York City in 1975. The crisis complicates analysis of the charter reform in two ways: first, it sapped attention from the reform effort as city leaders found themselves lacking the bandwidth to give thorough feedback to the Charter Revision Commission (CRC). This led to a flurry of calls for a delay of the final vote, up to and including the mayor and charter commissioner publicly withdrawing their support on the eve of the election (Smothers, 1975). This almost certainly had a chilling effect on voter's approval of reform measures. The second opacifying effect of the crisis was its confounding of easy comparison between planning governance's efficacy before and after the reforms. While attempts have been made to measure the effectiveness of reform, the fact that the Community Boards, Uniform Land Use Review Procedure (ULURP) and other hallmarks of the charter revision came into effect during a time of turmoil for the city has presented a significant challenge to analysts. Despite these obstacles, much has been written about the results of the charter reform, which is elucidated in the next chapter.

Ultimately the charter revision was broken down into 10 questions and put to the ballot; the first 6 appeared with a recommendation for their approval and the remaining 4 were presented without comment (Reaven, 2009). Somewhat predictably, the 6 questions endorsed by the charter commission were approved, while the 4 that were not were voted down (New York Times, 1975). What resulted was by and large the system we know today.

OUTCOME

Community Boards, 59 in total, each with membership half appointed by the local city councilmember and half by the corresponding borough president, were given a number of advisory powers. Among these are the ability to submit advisory resolutions to the CPC

encouraging the approval or disapproval of land use decisions during ULURP, review plans from line agencies concerning their neighborhoods, generate budget priorities, and review budgets from the centralized planning agencies. Notably absent in their organization was Thalbit's call for CBs to have dedicated planning staff of their own. Additionally, CBs were not awarded the ability to reject outright any development within their boundaries, "giv[ing] local communities a say in shaping important land use policies without granting them veto power over the public welfare" (State Charter Revision Commission, 1975). This may be contrasted with other cities such as Newark, where CBs (or their equivalents) do possess a measure of veto ability (Borelli, 2021). The internal development of different committees on zoning, land use, transit and other issues occurred organically within each board, although this development was uneven, as I will show later.

Perhaps the most significant result of the 1975 charter reform was the Uniform Land Use Review Procedure (ULURP), which organized all land use decisions into a single proceeding: "establishing the requisite decision-making stages and timetable for a host of land use applications", attending to the criticisms of "fragmentation, overlapping oversight, and costly delays" levelled at the previous procedure (Reaven, 2009:334). The process required that developers disclose details about projects to CBs, which were subject to their approval.

Aside from the annual preparation of budget priorities, the only additional proactive power available (though not exclusive) to the CBs through ULURP was the ability to prepare their own local plans, colloquially known as 197-a plans. Much like the rest of the reforms associated with the CBs, these plans are advisory, not carrying weight until approved by the CPC. Given that they require a significant investment of time, expense, and expertise, and that their approval is not guaranteed, this proactive form of neighborhood

planning is rarely pursued (Municipal Arts Society, 1998).

The Community Board system arose as the product of disparate social movements and circumstantial political expediency in the midst of a tumultuous fiscal crisis, but its ultimate shape was the product of the Goodman Commission. As New York City's government embarked on the

second half of the decade amid a fiscal crisis that would usher in a decade of austerity (McClelland & Magdovitz, 2000), it found itself surrounded by a constellation of new neighborhood-level institutions. As public attention rapidly turned to this crisis, a skeleton crew of academics and planners were left to determine how these changes in process effected planning outcomes on the ground.

02: THE RESULTS OF REFORM

There is broad consensus that the empowerment of citizens through the Community Board system has been limited in absolute terms, and that on a board-to-board basis is stratified according to a Community District's racial and class makeup. How they influence planning outcomes at the neighborhood level is the product of two factors: the amount of leverage the CB is able to bring to bear on a particular development, and the degree to which they seriously collect, synthesize and present the wishes of the community with a unified voice. This latter aspect is much more difficult to ascertain than the former, but both are investigated in this chapter.

Scholarly attention to this topic has varied over the years, as have the trends in CB activity, limiting the exactness of conclusions concerning their functionality. For instance, a subsequent charter reform in 1989 altered aspects of the planning process by moving responsibilities previously held by the Board of Estimate to the City Council, although the role of CBs was largely unaffected. Even within a set period of time, different areas of the city experience different development patterns, and responses to these patterns vary from CB to CB. Given these chronological, geographic and socioeconomic differences, any overarching determination about the quality of the participatory planning process is necessarily vague. Still, some patterns have emerged across timelines and geographies in a manner consistent enough to constitute trends in the performance of the system as a whole.

Having explored the various analyses of CB performance since their inception in 1975, this chapter concludes by placing their outcome in dialogue with the work of predominant planning theorists to explore the disjoints between theory and practice as encoded in the NYC charter.

HOW POWERFUL ARE THE COMMUNITY BOARDS IN PRACTICE?

We begin with a review of the ways Community Boards effectuate their wishes given their limited power and geographic scope. The powers granted to the CBs are universally advisory in nature, but this does not mean their decisions are completely inconsequential (Fowler, 1980).

Pecorella (1994) identifies four ways that a CB can assert its will during the ULURP process. The most straightforward way is that the CB can reject a development proposal, and the City Planning Commission concurs with their choice. In many cases, however, the CB and CPC do not agree. In such cases, the CPC overturns a Board's decision but attaches riders to their approval that address some of the reasons for rejection. This practice demonstrates the way that a board's rejection of a development functions more as a strong signal to the CPC, despite lacking statutory or political power (Fainstein & Fainstein, 1986). In the instance of private development a third avenue for a CB to assert itself appears in its power over the duration of parts of ULURP "by waiving, accelerating or slowing down the pace of proceedings" (Marcuse, 1987:279). CBs can also extract concessions from a developer as a condition for approval, whether the amenities in question are related to the development in question or not. The success of each of these strategies is extremely context dependent. For example, if a developer has a cozy relationship with the Commission, the power of the CB to extract favors is diminished and outright rejection of the development is off the table. Despite this variation, it is safe to say that on balance the CBs enjoy slightly more leverage in the ULURP process than their statutorily advisory role would suggest.

Outside of ULURP the prospects for CB power are not as rosy. While CBs are provided with substantial budgetary information from the city government, CB's influence on budgetary matters

is “often perfunctory” due to their lack of legal powers (Marcuse, 1987). Public hearings are required as part of City Environmental Quality Review (CEQR), but these meetings do not use the CBs as a venue. Additionally, although a “Fair Share” program was initiated with the 1989 reforms to ensure an equal distribution of Locally Unwanted Land Uses (LULUs) at the borough level, the poorer areas of each borough continue to receive a disproportionate number of such developments (Pecorella, 1994). While this program does center distributive equity in decision making, the process is riddled with loopholes and low compliance standards, and does not apply to state or federal facilities, as I will show in the case study section of this paper (New York City Council, 2017). Moreover, it gives Borough Presidents substantial leeway in siting decisions— an arrangement that will reappear in the FreshDirect case study in chapter 3.

DISPARITIES AMONG COMMUNITY BOARDS

Overall, while some CBs have managed to claw some leverage from their advisory powers during ULURP, this practice is highly contingent on neighborhood characteristics and the developmental landscape. For instance, in the course of this research planning professionals have often emphasized to me the reputation of Manhattan CB4, representing western Manhattan from Chelsea to Columbus Circle, which is well known for effectively negotiating with developers and extracting concessions (Bass, 2020; Woodward, 2021). At the time of writing, this CB is represented by the City Council speaker, and consists of affluent residential and business corridors which give it a base of expertise to draw on in addition to the political power of the speaker. Contrasted with the CBs representing less well-to-do neighborhoods it becomes clear that “board effectiveness is still hostage to socioeconomic variables...[which] do not lend themselves to structural redress” (Pecorella, 1994:150). Supporting this claim, Pecorella conducted a survey of the attitudes of CB members towards the CB system (n=628).

Although this data presents a snapshot of perspectives in the early 1990s, he identifies a pattern that remains relevant today:

Board members who support the city’s community integration approach are more likely to seek advice from central-city political actors, whereas community-control advocates are more likely to rely on local activists as sources of advice when making decisions on land-use and service matters (Pecorella, 1994:189).

This reliance on local activists did not occur in a vacuum. Analyzing the demographic aspects of survey respondents, he attributes some of the “alienation from city government among African-American activists” to a “history of racism, economic deprivation, and unfulfilled political promises,” as well as to the deprioritization of accountability mechanisms implicit in the city’s fiscal stabilization measures and austerity governance, which advanced developmental priorities while eliding questions of equity (p. 190).

While the fiscal health of the city is always in flux, the ongoing conditions of racial exclusion and the disproportionate impact of austerity measures on communities of color that underwrite this mistrust have not changed significantly since the 1990s. Although a similar study has not been conducted more recently, these findings are congruent with other forms of evidence from the present day, which I will discuss in chapter 4.

HOW WELL DO COMMUNITY BOARDS REPRESENT COMMUNITY INTERESTS?

A Community Board’s capacity to represent constituencies within a neighborhood is limited foremost by its distance from a democratic selection process. This distance is compounded by the nature of appointed board members and the low voter participation rates in the municipal elections which determine borough president and councilmember (NYC Campaign Finance Board,

2020). Moreover, community boards may represent some parts of a community more than others (Hum, 2010; Einstein et al., 2019; Yoder, 2020).

Sharp (1981) delineates between two kinds of representation: descriptive representation, which describes how demographically or experientially similar a representative is to their constituents, and substantive representation, which describes the extent to which a representative supports the same policies as their constituents. While acknowledging the importance of the former, the way that CB members are selected enables the parties responsible for selection, the local City Councilmember² and the Borough President, to choose members who might reflect the community in demographic characteristics but not in policy considerations, as we will see in the case of FreshDirect in Chapter 3.

Moreover, the determination of board membership by appointment makes members accountable to their appointee rather than the community they represent, to the extent that

where dissidents [are] appointed, the result [is] either to contribute to their cooptation into the well-regulated channels of the conventional political process, or to pit them in unrelenting internal conflict with other members (Marcuse, 1987: 280-281).

Marcuse goes on to note that Borough Presidents and Council members view CB appointments not as an exercise in selecting representative and engaged members of the public, but as patrons through which they can build their own constituencies (Ibid.). Understood in this sense, Community Boards primarily serve to reinforce the political power of incumbent elected officials, rendering their advisory planning function peripheral.

² The local councilmember recommends half of the Board appointees to the Borough President, which are generally granted.

TELEOLOGIES OF PARTICIPATORY GOVERNANCE

This perspective on the boards comports with the research into community participation summarized in Sharp (1981), which contrasted findings that participation boosted trust in local government with results indicating low political efficacy of participants. In one sense this improvement in trust may be taken as a silver lining around the grey raincloud of ineffectual governance. Supporting this optimistic reading, Marcuse gives credence to the idea that although sometimes ineffectual, the presence of the CB system in the City Charter created a permanent adversarial space that contributed a new and persistent forum for public discourse, the value of which should not be discounted (Reaven, 2009).

A less generous interpretation is also possible. Referring to Ira Katznelson's description of a Lindsay-era decentralization experiment in Inwood and Washington Heights in his book *City Trenches*, Reaven makes a more scathing observation:

Activists who recently had tried to set the terms of engagement and demand distributive justice now accepted the terms that were offered [through the Office of Neighborhood Government] and contended among each other for the meager fruits. This allowed the authorities to defuse the urban crisis and reestablish traditional power centers without making fundamental social reforms in issues such as wages, housing, and health (Reaven, 2009:340).

In this telling the subordination of participatory planning boards by entrenched political forces effectively neutralized cries for redistributive policies, foretelling Marcuse's criticism of the CBs. In their analysis of the Office of Neighborhood Government and the Community Board system that followed it, Susan and Norman Fainstein are less emphatic, stating that participatory governance brought about improvements in the transmission of information despite being a

co-optative enterprise overall (Fainstein et. al, 1976).

CONCLUSIONS

Each of these scholars - Sharp, Katznelson, Fainstien et al, and Marcuse - were contemporaries to the social movements that produced the Community Board system.³ They were also participants in an optimistic moment of social planning that saw academic planning programs partner with underserved neighborhoods, although many such programs terminated before they wrote their analyses (Sutton, 2017). Perhaps their proximity to the subject is the reason one detects notes of equivocation in each. None acknowledge in their reflections on the decade and a half following the 1975 Charter Revision that the CBs had not lived up to the promise of community control, or at the very least had not lived up to the labor of the activists and organizers invested in the project. Certainly none carry the implications of the cooptation they observe to their logical conclusion: that the apprehension and defanging of activist energy which occurs in the CB system presents a less favorable terrain for effectuating their goals than the pre-1975 status quo. This failure to communicate clearly about the structural shortcomings of the CB system produced a discursive vulnerability that contributed to the public misapprehension of the CB system that is ubiquitous today.

At minimum the community empowerment element of the Charter reform was a failure even by its own stated goals:

Encourag[ing] genuine citizen participation in local City government, ensur[ing] that local City government is responsive to the needs of

its citizens, [and achieving] effective local self-government (NYC Charter Commission, 1973).

It is clear that the 1975 Charter Revision did not achieve its first goal. Rather, it produced a simulacrum of representative decision making. The CBs are democratic neither in design nor practice. In a situation where a community member wishes to hold a board member accountable, her only available tool is to vote against the board member's nominee. A board member's proximity to her nominee, themselves running in off-year elections which see 20-50% less turnout than in federal election years (Campaign Finance Board, 2020), is so attenuated as to be invisible to even an engaged citizen. In practice, this makes a CB a co-appendage of its councilmember and borough president, with effectively no avenues of redress available.

Having established that the 1975 Charter Revision failed to develop a framework for genuine citizen participation in city government, I now turn to two case studies of planning projects in the South Bronx which are illustrative of the failures of the other two objectives of reform: improving the responsiveness of city government to its citizens and enabling community self-government

³ Academic interest in the CB system appears to coincide with charter revisions, and outside of such shifts in policy it does not garner much attention. Some articles/papers mention CBs in passing, or include CBs in an analysis of participatory institutions nationally or internationally, but focus on them exclusively appears to decline following the '75 revision, reappearing for the '89 revision and declining dramatically following Pecorella's (1994) quantitative analysis of the CBs.

03: COMMUNITY PARTICIPATION IN THE SOUTH BRONX

If any community has a claim as the national face of urban renewal it is the South Bronx. Few neighborhoods were so victimized by the centralized planning process that the 1975 Charter Revision sought to address as those south of E. Tremont Avenue. The name evokes images of Jimmy Carter and Ronald Reagan stepping out of limousines to address angry crowds amid a grey wasteland of bricks and rubble, like astronauts stepping onto the lunar surface. Perhaps the archetypal vignette of the destruction of the South Bronx can be found in the One Mile chapter of *The Power Broker*, in which Caro depicts a determined group of working class mothers and the slow erosion of their hopes to preserve East Tremont from the inscrutable hunger of Robert Moses and his Cross Bronx Expressway (Caro, 1974). The Cross Bronx, connecting the George Washington Bridge in the West to Throg's Neck and Long Island in the East, was infrastructure constructed not for the benefit of Bronx residents but "so [Long Island motorists can] get to the Catskills twenty minutes faster" (ibid., p. 870) according to future mayor Robert Wagner in 1953. The first of many such projects, its construction was an early tremor in the subsequent collapse of property values, white flight, and economic decline which sent the neighborhood into a tailspin (Gonzalez, 2004).

THE SOUTH BRONX AND THE NEOLIBERAL TURN

Although it was not evident at the time, the progressive ambition that characterized the era of the New Deal and accompanying urban renewal was coming to an end - both for New York and across the capitalist world - just as the 1975 Charter Revision came into effect. New York City's fiscal crisis led to the creation of the Emergency Financial Control Board, which laid off 20% of City employees, hiked transit fares, and initiated a program of austerity that left the South Bronx disproportionately vulnerable to the fires, unemployment and hunger that characterized its

nadir (McClelland and Magdovitz, 2000). During the preceding period of big government the South Bronx had been burdened with highways and urban renewal. Now, in the rubble of the South Bronx, on the site of the worst excesses of the implicit social hierarchy of progressive politics Ronald Reagan himself shouted to a pleading crowd of residents that "There is no program or promise that a president can make [...] that the federal government can wave a wand and [fix] this" (Altimeter Films, 2020). The state had failed the communities of the South Bronx - but by the 1980s it was clear it would not lift a finger to make them whole.

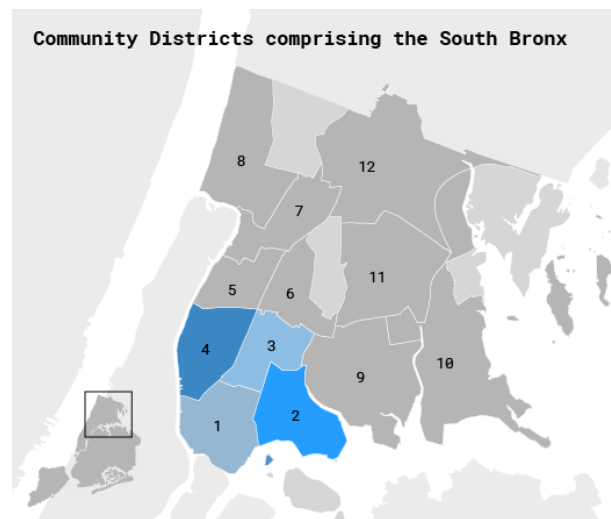


Figure 1. Bronx Community Districts.

Since that time both the federal and local government have been characterized as prioritizing economic development to the exclusion of considerations such as health, equity or justice: economic geographer David Harvey calls this modus operandi the neoliberal state, or, "a state apparatus whose fundamental mission [is] to facilitate conditions for profitable capital accumulation" (Harvey, 2007:7). The current of neoliberal capitalism flows through many planning decisions in the South Bronx, and is an important

context for understanding the motivations of decision makers in the case study section.

Despite significant steps towards recovery since the 1980s, the four CBs comprising the South Bronx experience poverty rates around 35%, double the citywide figure (Furman Center, 2018). Demographically, its neighborhoods are primarily Black and Latinx (Ibid.). While the South Bronx faces a complex nexus of issues stemming largely from its high poverty rate, it stands out notably for its rates of respiratory disease, including childhood asthma: 485 hospitalizations per 10,000 children across all four CBs (Hinterland et al., 2018). This health outcome is widely attributed to the prevalence of highways crossing the South Bronx, such as the Bruckner Expressway and Cross Bronx, as well as the industrial uses along the waterfront such as four (4) peaker power plants, a waste transfer station, and several distribution centers (Spira-Cohen et al., 2011; Storck, 2016; Kazis, 2010). The peninsular neighborhood of Hunt's Point in the Southeastern Bronx and the stretch of riverbank along Bronx Kill known as Port Morris comprise the industrial waterfront of the borough. The Hunts Point Terminal Produce Cooperative, a FedEx shipping center, a printing center for the New York Post, and multiple beverage distributors have all made their home there. These uses have been the subject of scrutiny among local environmental justice advocates, a pressure counterbalanced by the heft of economic influence wielded by these corporations. Straddling this tension between the will of a community ravaged by pollution and the neoliberal drive to lubricate the machinations of the free market sits the public participation process discussed in the previous chapter.

The following case studies demonstrate the flaws in the participatory planning provisions of the New York City Charter, building off of the work of other academics from the 1980s and 90s. While some of their conclusions regarding the efficacy of Community Boards continue to apply 30 years later, I apply Arnstein's (1969) ladder of

participation as an analytical framework for each case. I also map the exodus by adversarial parties from the regular order of the planning process inscribed by the CBs or city agencies as each party attempts to move the theater of debate to more favorable ground.

While both cases center environmental justice, one places the community on a reactive footing against the state planning apparatus, whereas the other features the community proactively pursuing their own plan to address the air pollution endemic to the area. This enables comparisons between the proactive and reactive features of the planning process enshrined in the 1975 Charter Revision.

SUMMARY OF THE FRESHDIRECT DEAL

On February 7, 2012 a press release titled "Governor Cuomo, Mayor Bloomberg And Borough President Diaz Announce Freshdirect To Open New Headquarters In The Bronx Creating Nearly 1,000 New Jobs" was published on the governor's website (New York State Governor's Press Office, 2012). The announcement followed chatter in the press that the grocery delivery service had been planning to move its headquarters from Long Island City, and was the latest move in an ongoing competition between New York State (NYS) and New Jersey to woo all manner of corporate headquarters (Bagli, 2012). Ultimately the NYS offer proved more attractive, with \$120 million in combined incentives from the state, city and borough, including \$74 million in City sales tax exemptions, mortgage tax deferrals, and real estate tax exemptions (New York State Governor's Press Office, 2012). The warehouse broke ground in December 2014 and began operations in 2018 (Small, 2014).

IDEOLOGICAL CONTEXT OF THE DEAL

The FreshDirect deal is a classic example of Harvey's (1989) concept of entrepreneurial city governance. Embedded in the incentives package one finds "a whole complex of forces mobilized by diverse social agents" (p. 7) engaged in inter-urban competition that is "forc[ing] repetitive and serial

reproduction of certain patterns of development” (p. 10) in the form of the South Bronx’ industrial waterfront. Further supporting the suitability of this framework, the site offered to FreshDirect was part of a greenway and riverfront development plan, a high priority for the waterfront neighborhood of Mott Haven (NYS Dept. of Environmental Conservation, 2016), a choice Harvey associates with a form of development focused so much on one site that it leads to urban planning becoming less comprehensive and more fragmentary (Harvey, 1989).

While Harvey does not discuss the validity of the reasoning underlying incentives packages like the one offered to FreshDirect, journalists questioned the authenticity of FreshDirect’s threat to decamp the state where most of its customers reside, and groups like Good Jobs New York expressed skepticism that the program would actually create jobs (Bagli, 2012). Their concern tracks with findings that seventy-five percent (75%) of the incentives proffered by governments were not the deciding factor during relocation. Moreover, he finds that even when successful, the costs of the incentives outweigh the benefits (Bartik, 2019).

GENESIS OF THE DEAL

Having established the ideological framework that was the impetus of the project, I now turn to details of the deal itself: how FreshDirect lobbied for it, defended it from opposition, and what its strategy indicates about the political calculus of the parties involved.

The details of how the incentives package was developed are largely unavailable to the public, but reporting indicates that around the time of the deal, FreshDirect hired three (3) consulting firms, the personnel of which offer glimpses into the firm’s strategy and observance of procedure. In addition to the company’s lobbying group on retainer, Parkside Group, FreshDirect also employed a law and lobbying firm to help negotiate the necessary zoning changes for the distribution center, as well as a communications

firm known as Marathon Strategies, which provided spokespeople for the firm (Mott Haven Herald, 2014). One of these spokespeople had previous experience on Governor Cuomo’s 2010 campaign, while the other had worked less than a year ago “as a spokesman for the Economic Development Corporation, where he provided his agency’s defense of the FreshDirect deal” (Ibid.). The fact that an employee of the state could be hired, albeit indirectly, by the firm which stood to directly benefit from his public service work is particularly egregious.

Furthermore, FreshDirect went so far as to hire Majora Carter, a prominent South Bronx environmentalist to combat “misinformation” from opponents of the project (Mott Haven Herald, 2012). The firm used her credibility to, among other things, argue that a 20 year old environmental impact study (which had been completed at a time when rail transportation rather than delivery trucks had been the expected mode by which goods would be delivered to the facility) was accurate enough for some of its assumptions to carry over into a more timely EIS (Ibid.; AKRF Inc., 2011).⁴

On the part of the government, the project originated under Mayor Bloomberg but was effectuated during the DeBlasio administration. By the twilight of the Bloomberg administration it had developed a reputation of trepidation for corporate welfare, often attaching riders requiring that businesses return subsidies if the jobs they promised failed to materialize (Bagli, 2012). As then-candidate DeBlasio was making his opposition to the FreshDirect expansion a campaign issue, Bloomberg was supporting it with uncharacteristic abandon alongside Governor Cuomo and Bronx Borough President Ruben Diaz Jr. No such rider was present in the contract between the Industrial Development Authority

⁴ Notably, the organization Mrs. Carter founded, Sustainable South Bronx, announced their opposition to the project proceeding without a new Environmental Impact Study (Mott Haven Herald, 2013).

(IDA) and FreshDirect, and while the Bronx Borough President had released a memorandum of understanding with FreshDirect requesting a third of the new jobs be awarded to Bronx residents, this too was unenforceable (Powell, 2012.). This shift in attitude regarding corporate incentives from the Bloomberg administration deserves investigation.

In terms of political economy, Batrik (2019) explains this alignment of support across multiple levels of government in his research which found that once one level of government engages in an economic incentives program, others are quick to contribute their own incentives, since the sum total benefits of attracting new jobs can plausibly be attributed to each. Even if benefits don't materialize, or if they materialize well after the politician responsible is out of office, voters still tend to reward the practice at the time of the deal. The political incentives for pursuing corporate giveaways are strong despite their weakness as a policy. In the case of FreshDirect, the combined city, state and borough governments were paying approximately \$130,000 per \$20,000 salary job (Powell, 2012). While the political economic justifications described in Batrik (2019) may have applied to the FreshDirect deal, they are insufficient to explain why the Bloomberg administration deviated from the pattern of earlier deals they had negotiated more adroitly. A more convincing factor is the unique employment history of the lobbying personnel hired by FreshDirect helped twist the Bloomberg administration into a different posture. Suffice it to say that the Bloomberg administration's abrupt shift in stance on these kinds of packages raised the suspicion of the deal's opponents.

While candidate DeBlasio decried the Bloomberg-era subsidies (Durkin and Fermino, 2013), as Mayor he proved to be more flexible: in March 2014, leaked emails revealed an informal agreement between Deputy Mayor Alicia Glen and FreshDirect's CEO that the Mayor would drop his opposition if the company agreed to pay "a living

wage," a promise which eventually materialized as a 20% wage increase for unionized workers (Briquelet, 2014). It should be noted that FreshDirect was given an exemption from a 2012 law requiring projects receiving over \$1,000,000 in City support to pay a living wage to their employees, effectively handing FreshDirect a bargaining chip that they later cashed in for DeBlasio's reneger on his promise to withdraw the subsidies (Trangle, 2015).

An additional batch of leaked emails, this time between a FreshDirect executive hired around the time of the deal and his former boss at the Department of Parks and Recreation, revealed a breach of the City Charter's conflict of interest law (Trangle, 2016). While the email exchange concerning a small sponsorship deal unrelated to the FreshDirect relocation was ultimately inconsequential, it serves to illustrate a prevailing culture at both institutions that does not take the appearance of corruption, very seriously. This conclusion is only enhanced by the political background of FreshDirect's lobbyists and the backroom dealing with the DeBlasio administration. Given that one of the primary goals of the 1975 reform was to diminish the appearance of corruption in planning matters, this introduction to the FreshDirect deal indicates a failure of the charter on that score (Goodman et al., 1973).

CB1 AS A SITE OF CONFLICT

The first public notice concerning the deal came in the form of a press release on February 7, 2012. Two days later, the first hearing on the subsidies gathered outraged comments from residents in downtown Manhattan (Wall, 2012). A preliminary vote by the IDA proceeded on February 14 despite a request by City Councilwoman Melissa Mark-Viverito (representing Concourse, Concourse Village, East Harlem, Highbridge, Longwood, Mott Haven, Port Morris, and Randall's Island) that it be delayed (Mark-Viverito, 2012). The project quickly consumed Bronx Community Board 1 (CB1) and took hold as a recurring and fractious topic.

Mychal Johnson, a member of CB1 who vocally opposed the project and organized a coalition of community groups known as South Bronx Unite (SBU) in opposition to it was not reappointed to the Board by Borough President Ruben Diaz Jr, a move which was widely interpreted as retaliation for his stance (Johnson, 2021). Following the notice of Johnson's removal from the board, a meeting on July 10, 2013 deciding whether CB1 would approve a modification of the agreement between the state DOT and the previous leaseholder concerning the use of the intended site resulted in a vote of approval, although it was taken under duress: the copies of the agreement provided to the CB members were illegible and incomplete, one board member filibustered the vote, and the president of the Bronx Overall Economic Development Corporation is quoted as saying "We're not even sure what they voted on," following the meeting (Hirsch, 2013). Despite the confusion on this point, the CPC and Mayor Bloomberg approved the plan in August (Mott Haven Herald, 2013). The lack of clarity regarding the legitimacy of the vote appears to be part of a larger pattern of obfuscation at the CB. A letter from the editor of the Mott Haven Herald alleges that "District Manager Cedric Loftin tried to prevent the board from debating a resolution that complained of the lack of community consultation" around FreshDirect a year earlier, as well as that Board Chair George Rodriguez had ended a meeting early to prevent a vote which would have signaled opposition to the project at a June 27 meeting (Mott Haven Herald, 2013).

Over the course of 2013 it appears that CB1 was a continual site of contention over the project, to the extent that those in charge performed procedural tricks to prevent dissent from being officially recorded, even going so far as to remove a dissident board member (Wall, 2013).⁵ The rancor of this conflict belies the CB's completely advisory role in the process, and betrays an

earnest belief among both the CB members and meeting attendees in the significance of the process - a critical observation which I will return to in chapter 4. A year and a half after the project was announced, opponents of the project had few official avenues through which to voice their dissatisfaction.

Outside of the CB, an opportunity for opponents of the project to voice their concerns arose when an additional \$10,000,000 subsidy from Empire State Development (ESD) generated a new round of public hearings in 2014 (Jacobs, 2015). Having had the benefit of several years of organizing rather than the two-day notice that had previously been given to the community ahead of the February 9, 2012 hearing, opponents of the deal successfully forced a delay on the vote which would award the subsidies (Walshe, 2015). However, at the follow-up meeting several months later, the board of ESD unanimously approved the subsidies, at one point stating that the origins of the high prevalence of childhood asthma in the South Bronx "are not well understood" (Empire State Development, 2015:44).⁶

ACTIVIST RESPONSES

As proponents of the project suppressed dissent through procedural means, activists also deviated from the regular participatory planning process in several ways. In 2015 Mayor DeBlasio was confronted by opponents of the project while dining in Mott Haven, and a meeting between Mychal Johnson's coalition of environmental justice groups known as South Bronx Unite (SBU) resulted. Mayor DeBlasio and then City Council Speaker Mark-Viverito both attended, but no substantive change came from the meeting (Goldenberg, 2015; Johnson, 2021).

South Bronx Unite brought a lawsuit against the City with three main contentions: that "New York

⁵ The only other time a CB member was not reappointed over their opposition to a project in the Bronx was over Yankee Stadium's construction in 2006.

⁶ In a study of air pollution in the South Bronx, Maciejczyk et al. (2004) found that "local environmental factors make a significant contribution to the pathogenesis and exacerbation of asthma" (p. 5284).

City officials [had] systematically understat[ed] the traffic problems and other impacts on the neighborhood” (Hu, 2013); that the project violated the original lease agreement mentioned on page 14; and that the project was ineligible for portions of the subsidy package it had been granted (Wall, 2013). A Bronx Supreme Court judge threw out the lawsuit, stating that the City’s EIS had been sufficient and dismissing the other claims due to “procedural infirmities” (Ibid.). Concerning the dispute over the validity of the EIS, the court found “that the determination of IDA not to require a Supplemental Environmental Impact Study (SEIS) was not affected by an error of law, arbitrary and capricious, or an abuse of discretion” (Brigantti-Hughes, 2013).

Finally, the group employed a strategy of direct action, staging a protest at the groundbreaking ceremony which resulted in nine (9) arrests including Mychal Johnson, the former member of CB1 (Scott, 2014). As the group pivoted to other strategies such as boycotting the company, the distribution center began operations in 2018 (Dawson, 2018).

IMPACT ON AIR QUALITY

The goal of the opponents to FreshDirect’s relocation was to limit and ultimately reverse the introduction of additional pollutants into the air of a community with an asthma hospitalization rate five (5) times the national average (South Bronx Unite, n.d.). In conjunction with the organization, Shearston et al. (2020) modeled the change in pollution, noise, and traffic before and after the distribution center opened using an array of sensors. They found significant increases in traffic-related noise as well as a slight increase in black carbon which “were not adequately predicted by the facility’s environmental assessment prior to construction” (p. 16). While the effect was small, it confirms that the air quality in the South Bronx is worse than before the move.

POLITICAL RAMIFICATIONS

It was for this price that the city, state and borough secured FreshDirect’s continued participation in the New York City tax base. I have been unable to find evidence that this saga had any effect on the electoral fortunes of any party involved. Councilwoman Mark-Vivereto was elected Speaker in 2014, after the most important decisions concerning the project had been made (Grynbaum, 2014). However, as a councilmember ostensibly supporting the project’s opponents, she was in a position to maintain Mychal Johnson’s position on the board by recommending his appointment after his removal in 2013 - but evidently declined to pick that fight with the borough president. Reporting indicates that she was handpicked by newly-elected mayor DeBlasio, another supposed opponent of the project - but she and DeBlasio were seen at the time as politically aligned and representing a shift to the left for city government (Ibid.). Perhaps she tempered her opposition to FreshDirect to help business interests swallow the liberal pill she and DeBlasio represented. Mr. Johnson himself speculates that the reason she declined to re-nominate him was more social than political, ascribing it to an attempt to curry favor with the Bronx political machine whose established members never accepted her (Johnson, 2021). At any rate, neither DeBlasio nor Mark-Viverito seem to have thrown their considerable political weight against the project, despite signaling their distaste for it.

Moving on from elected officials, the FreshDirect fight appears to have had no effect on the power structure of CB1. Cedric Loftin remains District Manager of CB1, and chairperson George Rodriguez passed away in office in 2019. This is unsurprising since both men serve or served at the pleasure of the borough president, a strong supporter of the project. What is notable about CB1’s role in the project is not the lack of political consequences, however, but the vigor with which adversaries contested the project on its terrain. Despite the board having no effective power to prevent the deal, board leadership resorted to

tactics that betray an earnest belief in the significance of CB1's advisory role.

ANALYSIS

In contrast to the district manager and chairperson of CB1, South Bronx Unite recognized that by joining the conflict over FreshDirect on the discursive battlefield of CB1, they were only contributing to its false legitimacy as a democratic institution representative of the community. By abandoning the CB as a site of conflict, they not only found more favorable terrain from which to contest the deal, they dealt a critical blow to the legitimacy of the CB and thus the cooptative apparatus.

In this sense, the attempts to silence the CB's dissenting voices backfired spectacularly: rather than admitting defeat and shrinking from the public eye, SBU was able to pivot from agitating within the CB against FreshDirect to publicizing CB1's suppression of their concerns. What might have remained a footnote in New York's development became a subject of political scrutiny.

Arnstein (1969) theorized a "ladder of citizen participation" that characterizes different degrees of participation by the level of power afforded to participants (Fig. 2).

The role of a CB in a generic project is that of informing and consultation - CBs are a point of contact by which the city informs the community of upcoming changes and solicits nonbinding input from community members on said changes. In the case of FreshDirect we see a CB operating at even less satisfactory levels of participation than this - abandoning even the semblance of democracy to silence opposition. It is notable that even the lowest rung on Arnstein's ladder signifying "the distortion of participation into a public relations vehicle by powerholders" (p. 26) is insufficient to describe CB1 during the FreshDirect fight. The Borough President, District Manager and Chairperson found the expression of resistance to

FreshDirect so threatening as to risk jeopardizing the legitimacy of the board, eliminating even its value as a PR vehicle. Credit for this belongs to those who organized to publicize and sustain the conflict, forcing those in power to engage in such procedural hardball that they unwittingly undermined the veneer of legitimacy around the planning process. In the final analysis, South Bronx Unite prevented the voice of their community from being tidily co-opted by the state planning apparatus in support of a neoliberal agenda that furthered their exploitation - but the undemocratic institutional landscape of the Community Board system prevented the community from clinching a more substantive victory.

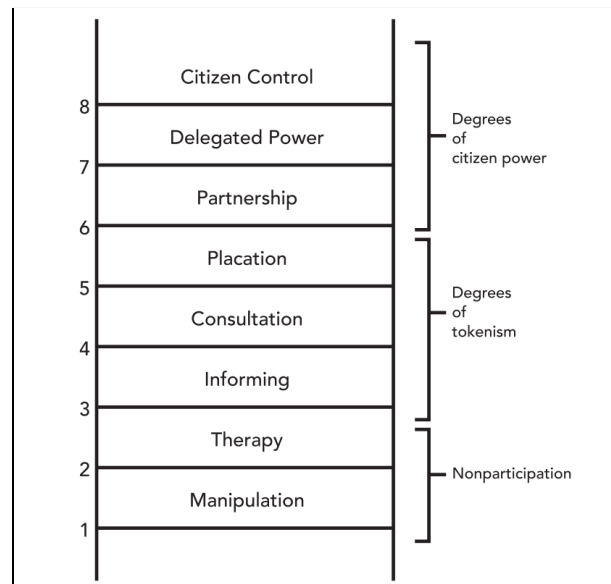


Figure 2. Ladder of participation (Arnstein, 1969).

The FreshDirect deal showcases the tools at the disposal of Community Boards when they want to silence dissent, as well as the options available to communities reacting to plans they disapprove of. I now turn towards a project initiated by a South Bronx community that involved more meaningful participation - although it too fell short of true citizen power.

HISTORY OF THE SHERIDAN EXPRESSWAY

The Sheridan Expressway was originally conceived by Robert Moses as an artery alleviating

congestion on the Major Deegan to which it would run parallel, as part of his second wave of highway building projects initiated in 1954 (Caro, 1974). Belief in this strategy of traffic relief was widespread but declining at the time, as previous expansions had failed to produce the desired effect - a traffic pattern which we now describe as induced demand (Ibid.; EPA, 2002). Moses' original plan for the highway was to connect it to I-95, but public opposition for the requisite destruction of the Bronx Zoo halted the project, which ceased construction in 1964 leaving a 1.25 mile stub of asphalt along the Bronx River (Topousis, 2000). By the turn of the millennium the highway had garnered a reputation for disuse and had been identified as an opportunity for improvement (Ibid.).

GEOGRAPHIC CONTEXT

As I turn to the proposals themselves, it is important to identify the geographic features of the South Bronx around which this project revolves. In terms of rail, the study area contains the elevated 6 line which runs along the Sheridan's southern portion before crossing the Bronx River, as well as Metro North and CSX tracks which cross at a similar location. For interstate highways, the Bruckner, Major Deegan and Cross Bronx all contribute to traffic flowing in and out of the borough (Fig. 3). A notable component of this traffic is trucks travelling to and from the Hunts Point Food Distribution Center (HPFDC), which employed 3,500 people in 2017 (McGeehan, 2017). In terms of land use, the area is characterized by residential and industrial development, with industrial uses most commonly sited in Hunts Point or along the Bronx River. The overlapping nature of the 6 stations and expressway exists along the elevated Bruckner creates dangerous pedestrian conditions, while off- and on-ramps form impenetrable barriers to non-motorized travel. Finally, the ground-level Sheridan Expressway itself cuts off access to Concrete Plant Park and Starlight Park along the river. Conflicts between competing industrial, residential and transportation uses are endemic to the study

area, and trade-offs between these uses characterize the different proposals for the Sheridan.

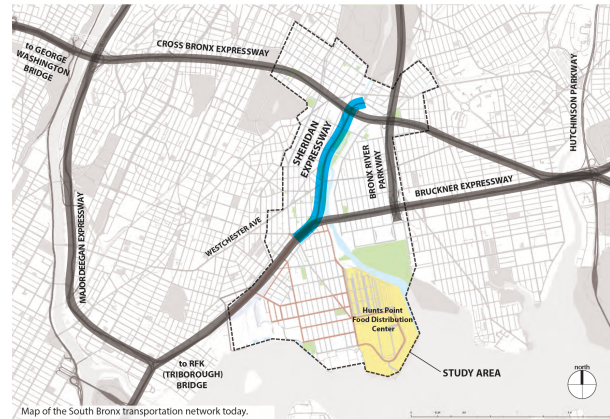


Figure 3. Study Area (NYCDOT et al., 2013:9).

SUMMARY OF THE PROJECT'S TIMELINE

A community plan to decommission State Route 895 and develop the land as park and residential space was put forth in 2006 by a collection of community organizations known as the Southern Bronx River Watershed Alliance (SBRWA) (SBRWA, 2015). The proposal was for the redevelopment of the 28 acres of land containing the expressway, which saw such little traffic that one could safely stand in the middle of it at rush hour, into affordable housing and commercial space, with the end goal of reconnecting the neighborhoods of CB 3 with the Bronx River waterfront (Bin Jung, 2009). To account for the truck traffic that would be diverted onto local streets in such a scenario, the plan also included a ramp from the Bruckner directly into the Hunts Point Food Distribution Center, making it a more efficient truck route than the Cross Bronx and eliminating the need for the Sheridan to connect the Cross Bronx to Hunts Point (SBRWA, 2008). The New York State Department of Transportation (NYSDOT) initially appeared to heed the demands of the Alliance for a holistic impact analysis of the plan which would include considerations beyond transportation, but as the project developed it deviated from the communities' vision. A 2010 traffic analysis conducted by the agency seemed "engineered to reach [the] preconceived result" that eliminating

the highway would flood local streets with traffic (Kazis, 2010), and a subsequent, more promising Transportation Investment Generating Economic Recovery (TIGER) grant funded study conducted by the city nevertheless reached the same conclusion. With the removal of the highway off the table, residents selected the NYCDOT design option that was second-closest to their vision: one that would maximally reduce the right-of-way of the highway and add protected intersections at three points along its length, bringing the scale and feel of the Sheridan more in line with other local streets (Arzu, 2017) (Fig. 4). The city plan also called for a truck-dedicated exit ramp off the Bruckner Expressway to be built in southwest Hunt's Point, to avoid further isolating the neighborhood from the Bronx River waterfront.

In March of 2017, four years after the residents selected this plan, NYSDOT unveiled their final plan for the highway in a press release featuring the approval of Governor Andrew Cuomo, Bronx Borough President Ruben Diaz Jr., and local State Assemblyman Marcos Crespo (NYS Governor's Press Office, 2017). In the press release, State Senator Jeff Klein went so far as to acknowledge "the destructive consequences of decisions that ignored the needs of our communities" which were allegedly rectified by the Sheridan redesign.

However, the fanfare belied the content of the final plan. The plan featured the same number of travel lanes as the existing Expressway, requiring a pedestrian to cross three different roads to reach the waterfront. It also placed the Bruckner off-ramps along the Bronx River, in direct violation of community expectations (Meyer, 2017). The expressway, rechristened as a boulevard, completed its makeover in 2019 (Cuba, 2019).

While the Sheridan Expressway project began with the residents and environmental justice organizers of the South Bronx, it did not end with them. Rather, the vision the community set forth was gradually eroded over 20 years by a multiplicity of forces citing economic and technical constraints,

resulting in an outcome largely resembling the status quo.

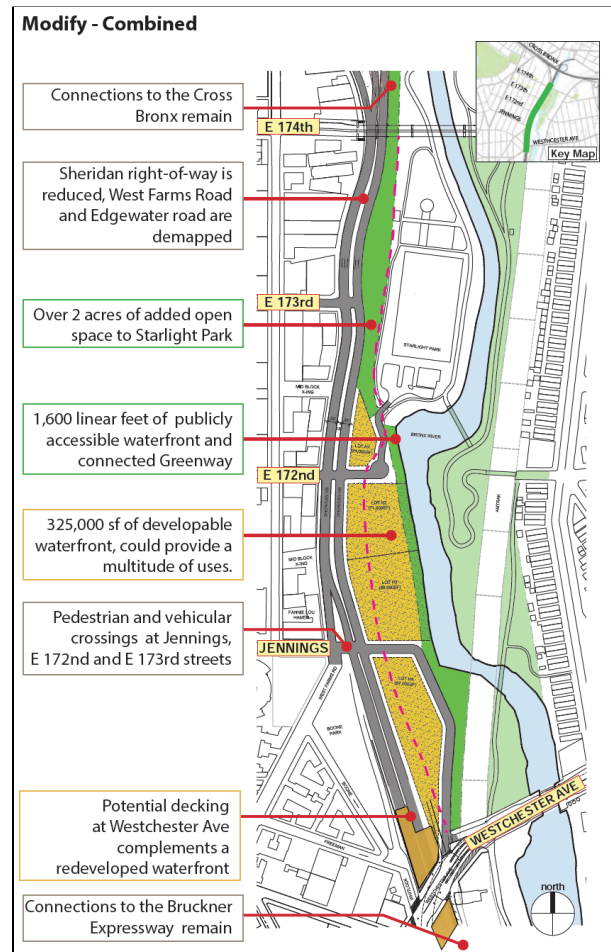


Figure 4. City-recommended design option (NYCDOT et al., 2013:36).

GENEALOGY OF THE SHERIDAN REDESIGN

This project has had a long history with many details worth considering. In the summary section, I have attempted to provide an overview of the project's development from ideation to implementation. It is clear that the final product was not what the community envisioned, and one may safely infer that a breakdown of the participatory process is responsible. Despite this key similarity to the previous case study, several important differences are also at play. First, the venue in which this conflict occurred was not Community Board 3 (which circumscribes the Sheridan), but rather a series of visioning sessions

and opportunities for public comment occurring throughout the project's timeline.⁷ It is for this reason that this section will center these irregular events rather than routine CB meetings. Additionally, while the FreshDirect deal became a political football which attracted considerable attention in the mainstream press, with political actors exerting principal authority over the project, the conflict over the Sheridan redesign may be found in the competing logics of NYC civil service professionals represented by DOT, DCP and EDC, and those of the community, represented by SBRWA. By analyzing the key public meetings between these two parties I will show that SBRWA's proposals and advocacy flow from a vision of restorative environmental justice, whereas those of the civil service professionals stem from a similar neoliberal ideological framework to that of the FreshDirect boosters, in which the economic needs of the Hunts Point Distribution Center needed to be balanced against the health and equity needs of the community.

I begin by demonstrating the initial stances of the belligerents in this case. SBRWA portrayed decommissioning the Sheridan as a win-win for both the community and the distribution center in the original 2006 Community Plan, touting "safe and efficient truck access" in addition to the immediate concerns of the community, indicating a 'big tent' style approach in keeping with the group's coalitional nature (Southern Bronx River Watershed Alliance, 2008). In contrast, a leader of the Hunts Point Terminal Produce Cooperative Association expressed a significantly more myopic conception of the community:

Eliminating the Sheridan would bring things backwards a bit and make it worse. The job is to try and fix the situation, not to make a park. This is about highway stuff and traffic [...] a

few minutes of truckers' time on a bad day will stifle the entire community (Dolnick, 2010).

The attitude of the Hunts Point business community characterized by this quote not only assumes a zero-sum result, but indicates a normative entitlement to the full assistance of the state in support of private enterprise. To the extent that the larger community is a consideration, its needs are substituted for the needs of the delivery drivers. Both the organizations comprising SBRWA and the HPFDC have long histories of interaction with government, but it is clear that these institutions have learned very different lessons from those encounters.

An early meeting between NYSDOT and the public on July 13, 2010 is notable to introduce a recurring debate over the heuristics that the agency was using to analyze the different proposals. DOT presented two proposals, each with a new ramp connecting the Bruckner to Hunts Point, but one that left the Sheridan in place and another that decommissioned the expressway (Kazis, 2010). Through the course of the meeting and during Q&A it became clear that DOT was not factoring what would replace the highway as they began their Environmental Impact Statement (EIS) - essentially comparing the two only in terms of their impact on surface transportation, a framework which would make the decommission option much less attractive, to the dismay of activists. A year later, however, NYCDOT and DCP began taking more responsibility for the project with the advent of a \$1.5 million TIGER-funded study that would include more holistic metrics than the aborted NYS EIS would have (Kazis, 2011) (Fig. 5).

⁷ Effectuation of community goals outside the CBs has a substantial history: opposition to the Lower Manhattan Expressway (1967) and the Melrose Commons Community Plan (1994) are both notable successes of this approach (Amato, 2018).



Figure 5. New Study Area (NYC DCP, 2011).

The city began work on the project in July 2011 with walking tours, charrettes and other forms of public engagement, during which the project appeared to move in a promising direction for SBRWA (Ibid.). At the same time, negotiations between the Bloomberg administration and HPFDC over their lease had begun, with counter offers from New Jersey putting pressure on city officials to produce a favorable deal (Crain's New York, 2012). The two parties extended the negotiation deadline by 90 days in late February 2012, indicating contention (Ibid.). At the conclusion of this period, HPFDC was awarded "\$50 million in state funding and \$87.5 million in both capital funding and tax incentives from New York City" (Governor's Press Office, 2012) in a move reminiscent of FreshDirect's \$120 million incentives package.

Then, at a May 10, 2012 meeting DCP announced that as a result of their own traffic study they would no longer be considering any options that would remove the Sheridan, blindsiding community members (Fried, 2012). NYCDOT made the determination that "trucks heading from the Cross Bronx to Hunts Point would have to use other local streets" (Miller, 2012), an option that ignored several factors that had previously been brought to DOT's attention, such as the ability for delivery trucks to use the lower level of the George Washington Bridge, prohibited since the September 11 attacks but possible in theory, to access the Bruckner and avoid the Sheridan altogether (Ibid.). From there, ramps connecting

the Bruckner to Hunts Point that were meant to offset the Sheridan's lost capacity would now complement the Sheridan route. Reporters were unable to confirm a connection between the recent deal and the narrowing of the methodology of DCP's analysis.

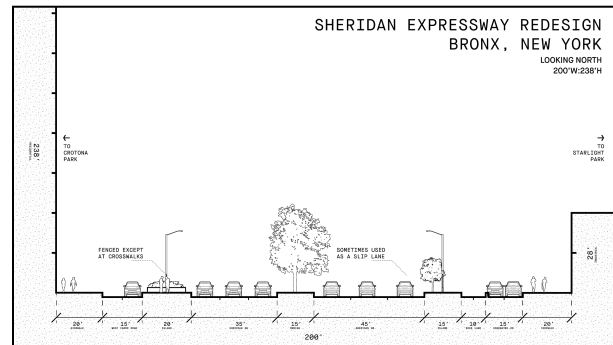


Figure 6. The final Sheridan Boulevard section.

In the previous case I demonstrated a propensity within the Bloomberg administration for overriding community plans such as the South Bronx Waterfront Development plan in favor of economic development priorities. The FreshDirect deal was announced on February 7, 2012, weeks before the negotiation window between the city and HPFDC was to expire (Governor's Press Office, 2012). In light of the remarks by the HPFDC representative quoted on page 20, it is clear that leadership of that organization understood the role of the state in keeping with the kind of support offered to FreshDirect. It is possible that representatives of the distribution center were aware of the deal being offered to FreshDirect and, recognizing that it strengthened their bargaining position with the city, agreed to a 90 day extension and proceeded to extract concessions up to and including the retention of the Sheridan. However, this theory is uncorroborated, and one source I spoke with noted that most parties involved with the project believed it "was a pipe dream at the time," and that therefore the loss of freight capacity envisaged in the Sheridan plan was likely not treated as a credible threat by HPFDC (Genn, 2021). Regardless, the fact remains that HPFDC, like FreshDirect, used interstate competition to extract concessions from state coffers.

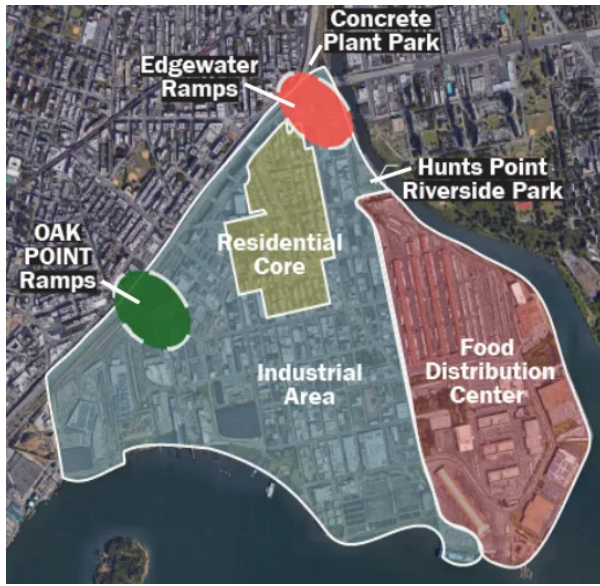


Figure 7. The community-favored Oak Point ramps and the state-favored Edgewater ramps (SBRWA, 2018).

Following the changes wrought by the May 2012 meeting, the trajectory of the project was largely unperturbed. Reporting from December 2012 indicates members of SBRWA readjusting their ambitions for the project (Miller, 2012). A 2013 plan for the Sheridan asked residents to cross five (5) lanes of traffic to reach the Bronx River Park, which was later revised to eleven (11) lanes in 2017 (Trangle, 2018) (Fig. 6). With respect to the Bruckner ramps, DOT selected an option disfavored by the community because it would direct traffic through a residential area on its way to Hunts Point as well as become an additional barrier to the community's tenuous connection to the waterfront (Cuba, 2019). The community's preferred option would have required bridging a CSX train yard, which DOT claimed to be too expensive (Meyer, 2017) (Fig. 7). However, DOT's preferred option required the use of eminent domain for several lots, displacing businesses in order to avoid negotiating with the freight company (Meyer, 2018). This decision was made after only one community meeting, which had only been announced just a week prior (Meyer, 2017). In June 2018 NYSDOT released a draft EIS on the project, which found that the ramps would lead to a net increase in air pollution at the foot of

residential buildings (USDOT et al., 2018). After 20 years of advocacy and \$1.7 billion in capital costs, the Sheridan Boulevard was unchanged except for the addition of three (3) crosswalks connecting the residential community to the Bronx River. Despite this result, activists responsible for shepherding the 20-year process acknowledge that "It's not what we wanted, but outside of that the plan is great stuff," emphasizing that absent the commitment of State funding the Sheridan would have remained completely impenetrable and truck traffic to HPFDC would have continued to spill onto local streets, a problem both SBRWA and the distribution center sought to address - but also admitting that by the end of the process, fatigue had claimed much of the ambition that characterized the group's earlier proposals (Shuffler, 2021).

ANALYSIS

Finding themselves in a community plagued with high asthma rates, ringed by highways and cut off from natural environments, SBRWA developed a plan for the Sheridan expressway that countered the NYSDOT plan to widen the highway in the late 90s (SBRWA, 2015). Their plan considered a radical and comprehensive alternative, with transportation, housing, sustainability, and economic development planks. Over the next two decades their vision was chipped away under the banners of technical difficulty, of high expense, and of contribution to congestion. The project as implemented did not improve access to the waterfront so much as it redistributed it, falling far short of community goals. In contrast to the FreshDirect case, this project followed regular procedure, and once receiving the TIGER grant (in no small part a fruit of the group's labor) likely achieved a higher level of participation than other projects of similar scale.⁸ However, while the planners and transportation engineers were required to attend the meetings, the modes of analysis they applied and the value judgments they

⁸ According to the NYCDOT website, at least 12 meetings between 2011 and 2013 were conducted concerning the Sheridan (not including public site tours)

made were discretionary. It is at this elective junction that the degree and kind of participation was truly determined. At its most promising, the Sheridan project saw the SBRWA collaborating with DCP to win a TIGER grant. At its worst, the neoliberal logic of professional planners and traffic engineers, in weighing the efficient transportation of a fraction of trucks driving into and out of Hunts Point (Fig. 8) more heavily than the desire of South Bronx residents to have an accessible waterfront, superseded the needs of the community as portrayed in the original 2006 plan.



Figure 8. Analysis of truck routes (NYC DOT, 2013).

Returning to Arnstein's (1969) framework, the Sheridan project runs the gamut from partnership, the sixth rung of the ladder, to consultation, the fourth. If the project maintained its community driven quality throughout its life, it might have earned higher marks, but "when powerholders restrict the input of citizens' ideas solely to [consultation], participation remains just a window-dressing ritual" (Ibid.: 28). The community was thoroughly consulted - but as the piecemeal revelations from city and state officials brought the project's final shape into focus, leaders came to realize that their input had still been ignored.

The Southern Bronx River Watershed Alliance had developed a comprehensive plan which included housing, retail, transportation and environmental planks. This project, and the years of advocacy work that went into its promotion, represent an enormous investment by the community in its future. Yet, when the governor's office released a

high-quality video touting the project, their role was erased - instead the narrative begins with Robert Moses' role in building the expressway before announcing that "in 2017, Governor Cuomo took action" as inspiring music swells in the background (Governor Andrew M. Cuomo, 2019). No community members are featured in the video, but the president of one of the food distributors happily "applaud[s] the Governor for taking the time to say 'somebody's gotta step up and bring this to a resolution'" (Ibid.). One city official I spoke with noted that the video reminded him of "other Cuomo projects, like the Tappan Zee," observing this kind of self-aggrandizement is part and parcel with the Governor's self image as a leader who builds things, contrasting himself with the flaccid leadership that preceded him (Genn, 2021). The ability for viewers of the video to post comments is disabled.



Figure 9. Before and after comparison (Governor Andrew M. Cuomo, 2019).

04: INSTRUMENTALIZED PARTICIPATION AND THE LAUNDERING OF STATE POWER

Both the FreshDirect deal and the Sheridan redesign were touted in press releases as victories for the underserved communities of the South Bronx, each featuring numerous elected officials offering praise and support for the projects (NYS Governor's Press Office, 2017; NYS Governor's Press Office, 2012). In this sense, elected officials co-opted activist labor by taking credit for improving the South Bronx despite substantial opposition (as in the FreshDirect case) or despite having themselves tolerated the deviation of the project from the community's vision (as with the Sheridan). This form of co-optation is insidious, but it fails to capture the full array of stakeholders engaged in the co-optative project. To fully understand it, I will develop a theory which instrumentalizes participation as a laundering agent in the devolution of state power not to the community as the Goodman Commission intended, but to private interests.

The members of the Goodman commission faced a difficult challenge when they rewrote the NYC Charter's planning functions. The main balancing act they were tasked with was assessing the degree to which the city could still function as a whole while decentralizing planning power as much as possible. Their answer to this challenge was to devolve some planning power to borough level offices, and to set the level of participation at the community boards between informing and consultation, to return to Arnstein's (1969) ladder. In terms of concrete power, planning had been decentralized to the degree that borough presidents could exercise aldermanic privilege on the board of estimate and city councilmembers could exercise the same in council sessions. But the community boards, as well as the public hearings required as part of ULURP and CEQR, did not meaningfully bind planning officials. They offered citizens the opportunity to consult or be informed regarding planning decisions, but in

concrete terms no power had been delegated to the CB level. In part due to the fiscal crisis of 1975 which drew attention away from the results of reform, and in part because of the uncritical planning scholarship around the CBs in the early Postreform years, this default mode of public consultation became accepted as an important function of democratic city governance, despite their straightforwardly undemocratic structure. The Goodman Commission's choice to fill CB seats by appointment and withhold concrete power from them would leave these neighborhood institutions vulnerable to the political, economic and social transformations to come.

THE LAUNDERING OF STATE POWER

Following the neoliberal turn of the 1970s, this transformation arrived as city governments shifted from a stance of managerialism to entrepreneurialism (Harvey, 1989). The tacit assumption that the role of government, and the role of planning in particular, is to facilitate the exchange of goods and lubricate the cogs of capitalist accumulation became more entrenched decade by decade. This neoliberal logic is knit throughout both the FreshDirect and Sheridan cases. In the former case, dissenting voices were suppressed within the community board, enabling a superficial approval of the development of the FreshDirect site, thus exploiting its perceived legitimacy as a democratic representative of the community in service of an economic development package. In the latter, participation and even partnership between citizens and their government was leveraged to pass off an expensive infrastructure improvement benefitting a handful of companies and as a community-driven project. In both cases, the priorities of business interests were achieved at the expense of the air quality and amenity access of the poorest congressional district in the nation (U.S. Census Bureau, 2010).

The degree of participation in these cases was modulated and corralled in pursuit of that goal. With the ink dry and the ribbon cut, elected officials and business leaders could point to the participatory process as a legitimizing factor or a point of pride during their victory laps. In each case the performance of democracy enabled state power to be laundered, by way of community participation, to the private sector.

DEMOCRACY FOR SOME

In Marc Dunkelman's 2019 essay on the travails of Penn Station's redevelopment, he puts forth the following thesis:

If the progressive movement's original project had been to use centralized authority to pursue the greater good, in the 1970s the left's new mission was to prevent public power from trampling the powerless [...] In the decades since, that gospel has been used to justify efforts to require projects to mitigate even the slightest environmental effects, to preserve landmarked buildings no matter the cost, to democratize land use decisions so that not-in-my-backyard stakeholders can reject even projects of great public benefit, and much more. By many measures, the movement to devolve power has been wildly successful. But more than four decades later, the trade-offs have become more evident. Nowhere is the evidence starker than at Penn Station (Dunkelman, 2019).

I would contend that this movement has been "wildly successful" only for the neighborhoods and community boards with the resources, wealth and expertise to bring their will to bear on the civic stage. For example, the opposition to FreshDirect could easily be characterized as a "not-in-my-backyard" effort against a project of questionable public benefit - and yet it clearly did not benefit from democratization of any sort. This stands in contrast to the experience of boards in more affluent quarters, which often enjoy

favorable relationships with developers which are averse to even an advisory vote of rejection (Woodward, 2021).

In fact, such neighborhoods may be the source of contentious projects that find their way to the South Bronx: a South Bronx real estate professional I spoke with identifies a pattern of NYC development through which formerly industrial areas of the city gentrify and displace industrial uses, such as FreshDirect from Long Island City or the mail distribution centers in Hell's Kitchen (Johnson, 2021). In his telling, these uses then migrate from the backyards of CBs whose real estate value is growing to the backyards of the South Bronx.

IMPLICATIONS FOR COMMUNICATIVE RATIONALITY

I mentioned above that the FreshDirect deal constitutes an example of a project of questionable public benefit. But setting aside the specific flaws of that project or those of the Sheridan project, it is conceivable that the continued good operation of the Hunts Point Terminal Produce Cooperative and FreshDirect as secured by these projects could benefit the residents of the South Bronx in the form of jobs. It is also conceivable that in time, the taxes paid by these firms will be spent in ways that benefit the community. Even under the most favorable assumptions, these projects would present a trade-off between economic benefit and the respiratory health of the community, in addition to foreclosing on the possibility of a park along the Port Morris waterfront and affordable housing along the Bronx River. No doubt some members of the community, making the same favorable assumptions, found this trade-off to be acceptable- certainly many CB1 members approved of the FreshDirect subsidy. To such proponents, the members of South Bronx Unite retort in an oft repeated slogan, "You can't work if you can't breathe" (Rivera, 2014). This quintessentially Postreform debate was able to (ostensibly) occur through communicative

rationality: the neoliberal logic supporting the combined expenditure of \$1.82 billion on HPFDC & FreshDirect had to compete with the logic that community health is a necessary antecedent to job creation (Healey, 1992). However, I have shown that the reality of the planning process in these case studies more closely resembles the unilateralism of the earlier Reform school of planning, despite proceeding under the camouflage of democracy.

Healey herself was aware of this critique of communicative rationality, asking whether it

[does] not merely cocoon us into a naive belief in the power of democratic discussions, while the forces of global capitalism ever more cleverly conceal the ways they oppress us? [...] to engage in any other strategy is to generate once again forms of planning which have inherent within them an anti-democratic 'dominatory' potential (Ibid.: 159).

It seems that even the strategy she puts forth, embodied however imperfectly in New York's participatory planning process, contains in itself the fatal flaw she envisaged in the other forms of planning thought. The unquestioned allegiance to rationality understood as "pure logic and scientific empiricism" (Ibid.:237) which delivered for New York "the disaster of high-rise towers for the poor [...] the dominance of economic criteria justifying road building and the functional categorization of activity zones, which worked for large industrial companies and those working in them, but not for women (with their necessarily complex lifestyles), the elderly and the disabled, and the many ethnic groups forced to discover ways of surviving on the edge of established economic practices" (Ibid.:235) is reconstituted today in the unquestioned allegiance to the 'democracy' of participatory planning.

CONCLUSION

In her remarks regarding the Sheridan project, director of community organizing and outreach at Youth Ministries for Peace and Justice Dariella Rodriguez stated that:

Our young people learned about Robert Moses and his racist city planning, and we actually celebrated when we heard the governor's announcement [that the state would fund the Sheridan redesign... but] our community voices and our interests [are] not recognized in these plans (Meyer, 2018).

If the goal of Postreform governance was "to prevent public power from trampling the powerless," (Dunkelman, 2019) it was unsuccessful insofar as public power was devolved not to communities but to private institutions which, deploying their sway over the state, trampled the residents of the South Bronx. If the trade-offs of decentralization end up enabling the rejection of projects of public benefit as Dunkelman maintains, and yet the system as designed also permits outcomes like those found in the FreshDirect and Sheridan case studies, of what use was the devolution of power? If the participatory planning process bestows veto power on wealthy communities with one hand while appropriating the labor, clout, and energy of grassroots organizations with the other, can it really be said to serve all New Yorkers? Certainly the continued intonations of 'democracy' when referring to these forms of managed participation ought to be eliminated, not only for the term's inaccuracy but for the cover it offers apparatchiks and elected officials engaged in the transfiguration of projects intended to benefit corporations into a publicly palatable product. For planners to begin to demystify this simulacrum of democracy, it will require an acknowledgement that the process is insufficient to protect vulnerable communities, and an awareness of the ways it abets their exploitation. Only then can it be reformed.

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